

**LEGAL OFFICERS (ANNUAL FEES) ORDER 2006
ECCLESIASTICAL JUDGES, LEGAL OFFICERS AND OTHERS
(FEES) ORDER 2006**

Explanatory Memorandum

1. The membership of the Fees Advisory Commission (“the Commission”)¹ for the current quinquennium is:

Appointed by:

His Honour Judge Andrew Rutherford (Chair)	The Lord Chancellor
Mr Geoffrey Tattersall QC	The Chairman of the Bar Council
Mr Aiden Hargreaves-Smith	The President of the Law Society
Mr Michael Chamberlain	The Archbishops’ Council
Mr Andreas Whittam Smith (First Church Estates Commissioner)	The Church Commissioners
Mr Timothy Allen	The Appointments Committee

All members are members of Synod, except the Chair.

2. The Commission is assisted by four consultants: one from the Ecclesiastical Judges Association (representing diocesan chancellors and other ecclesiastical judges), one from the Ecclesiastical Law Association (representing the diocesan registrars), one of the provincial registrars and a member of the Research and Statistics Department of the Archbishops’ Council.

¹ The constitution of the Commission is laid down by section 4 of the Ecclesiastical Fees Measure 1986, as amended by section 16 of the Church of England (Miscellaneous Provisions) Measure 2000.

(a) *Legal Officers (Annual Fees) Order 2006*

3. The Legal Officers (Annual Fees) Orders made under section 5 of the 1986 Measure fix the annual fee payable to each diocesan registrar for the work specified in Schedule 1 to the Order (much of which they are required by law to carry out).

Background to the 2006 Order

4. As members of the Synod will be aware, the evidence supplied to the Commission over a substantial period has consistently demonstrated that the amount paid to the registrars by way of annual fees falls some way short of what would be reasonable remuneration for their work. In 1996 the Commission therefore informed the Synod that it proposed “that in 1997 and in subsequent years if the information which registrars supply annually....continues to reveal a substantial shortfall, it will ask the Synod to agree to an increase of 2% on top of that which is calculated in accordance with the usual inflationary formula.” (GS 1225X). The term “usual inflationary formula” was used at that time, and is still used, to refer to a combination of the increases in RPI (25% weighting) and AEI (75% weighting) for the previous year (both published by the Government).
5. Each year between 1997 and 2002² the Synod approved draft Orders that increased the total amount paid to all diocesan registrars by the ‘usual inflationary formula’ plus a further additional increase. In each year between 1997 and 2000 this additional increase was 2%, while in both of the years 2001 and 2002 this additional increase was 1%³. In 2003 the Synod approved a draft Order that provided for an increase by inflation, as measured by the RPI alone, with no additional upgrade.
6. In May 2004 the Commission agreed, by a majority of those present, to recommend to Synod a draft Order that was again calculated using RPI alone, with no additional upgrade (GS 1537X). The motion for the approval of this draft Order was

²Each year, in support of these proposals, the Commission set out a sequence of supporting statistics that have been gathered and analysed by the Statistical Unit of the Central Board of Finance (now a Department of the Archbishops’ Council), the latest of which (for 2005) is annexed to this explanatory memorandum.

³ This lower figure was agreed by the Commission in response to the financial constraints facing the Church (and with the support of the registrars’ consultants).

defeated at the July 2004 Group of Sessions. In October 2004 the Commission agreed (with one member absent) to recommend a revised draft Order calculated using the 'usual inflationary formula' (GS 1562X). The motion for the approval of this Order (to come into force with effect from 1st January 2005) was carried at the February 2005 Group of Sessions. In July 2005 the Synod approved a draft Order that provided for an increase by the usual inflationary formula alone, with no additional upgrade, and this Order is now in force with effect from 1st January 2006.

7. In May 2006 the Commission agreed unanimously (with two members absent) that the inflation figure to be used to calculate the level of fees contained in the Legal Officers (Annual Fees) Order 2006 (to come into force on 1st January 2007) should be the **usual inflationary formula**⁴ with no above inflation top up. The level of increase which has been applied is therefore **3.775%**. As in previous years, this increase is applied to the **total** sum payable under the Order currently in force, which is then divided amongst the dioceses in accordance with a weighted formula which takes account of both the number of parishes in a diocese and the number of clergy of incumbent status and above (excluding cathedral clergy).

(b) *Ecclesiastical Judges, Legal Officers and Others (Fees) Order 2006*

8. The Ecclesiastical Judges, Legal Officers and Others (Fees) Order fixes fees for faculty proceedings and some other proceedings in ecclesiastical courts, and also provides for the fees of the Provincial Registrars and the Vicars-General and certain fees for Synod elections.
9. In past years, the Commission has restricted the increase in the fees payable under the Ecclesiastical Judges, Legal Officers and Others (Fees) Order to the inflation figure used that year to calculate the increase in the Legal Officers (Annual Fees) Order, but always without an additional upgrade. In the period 1997-2002 this resulted in an annual upgrade calculated on the basis of the 'usual inflationary formula' (as defined in paragraph 4 above) whilst the inflation figure used in 2003 and 2004 was based on RPI alone⁵.

⁴ The RPI figure for 2005 is 2.8% and for AEI is 4.1%, giving a 'mixed' figure of 3.775%

⁵ It should be noted that the Ecclesiastical Judges, Legal Officers and Others (Fees) Order 2004 (based on RPI alone) was approved by the Synod in July 2004.

10. In May 2006 the Commission agreed unanimously (with two members absent) that the policy outlined above should again be applied in calculating the fees payable under the 2006 Order (except for the fee referred to below), which have therefore been increased by **3.775%**, that is the figure calculated using the ‘usual inflationary formula’, with no additional upgrade.
11. The Commission received a submission from the provincial registrar of the province of York (Mr Lionel Lennox) asking for a one-off above inflation increase in the fee payable to the provincial registrar for permission under the Overseas Clergy (Ministry and Ordination) Measure 1967 (item 1 of Table VI)⁶. On an analysis of the time taken to process an application in his registry and using the relevant fee rates for 2005 and 2006, Mr Lennox had suggested that a fee of £101.50 and £105.50 respectively would be reasonable for 2005 and 2006 (the actual fees payable for these years being, respectively, £66 and £69). In order that a reasonable fee was set for this work in future he suggested that the fee to be payable from 1st January 2007 should be £100 (it would otherwise be £72, when increased for inflation). Mr Stephen Slack, who deals with applications for these permissions for the province of Canterbury, supported Mr Lennox’s analysis and submission. The Commission agreed that this fee should be increased to £100 in the 2006 Order to establish a reasonable fee for this work.

1st June 2006

⁶ It was noted that these permissions are required by any ‘overseas cleric’ before he or she can officiate in either province and are granted separately by each archbishop for his province.

Annex – 2005 Diocesan Registrars’ Retainers – a Statistical Report

Introduction

Each year since 1994 the Archbishops’ Council’s Research and Statistics Department (formerly the CBF Statistics Unit) has presented a report to the Fees Advisory Commission based on figures supplied by diocesan registrars for the work carried out in the previous year. Each year the data has shown a wide gap between the size of the overall retainer and the monetary value of the work covered by the retainer.

Median Diocese

The concept of a ‘median diocese’ has been used in each report. The median of a set of values is defined as the middle point when the values are arranged in order of size and is used as a measure of “average” that is not unduly affected by extremes. For this analysis a median diocese is defined as one where the registrar and his/her staff worked the median number of hours for the median rate of pay.

The table below shows the median hours worked, the value of work done in a ‘median diocese’ and the median retainer since 1993.

Year	Median hours worked	Median Monetary Value of work done	Median Retainer	Median Retainer as percentage of median value of work done
1993	587	£39,800	£23,000	58%
1994	572	£41,200	£24,100	58%
1995	549	£39,400	£24,700	63%
1996	532	£40,200	£25,400	63%
1997	582	£42,400	£26,600	63%
1998	633	£49,200	£28,000	57%
1999	540	£45,700	£29,700	65%
2000	498	£47,800	£31,000	65%
2001	532	£48,500	£32,800	68%
2002	491	£54,800	£34,500	63%
2003	531	£56,900	£36,300	64%
2004	473	£59,100	£36,900	62%
2005	547	£69,700	£37,800	54%

Note: The ‘monetary value of work done in a median diocese’ is defined as the sum of: a) the median hourly rate for clerks multiplied by median hours worked by clerks; and b) the median hourly rate for registrars and

solicitors multiplied by the median hours worked by registrars and solicitors.

Conclusion

The above analysis shows the gap between the median diocesan registrars' retainer and the median monetary value of work carried out by diocesan registrars increased substantially between 2004 and 2005. The median hours worked have also increased substantially, returning to a value similar to those in the mid-1990s. The gap, of 46%, between the monetary value of the work and the median retainer in 2005 is similar to the gap when the exercise began. It must be noted that the table above does not take into account the nature of the work or the level of personnel performing it.

*Research and Statistics Department
Archbishops' Council*

May 2006